

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)



Applicant's or agent's file reference P11085 WOMH	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA416)	
International application No. PCT/GB 03/03040	International filing date (day/month/year) 11.07.2003	Priority date (day/month/year) 12.07.2002
International Patent Classification (IPC) or both national classification and IPC A23L1/29		
Applicant RECKITT BENCKISER HEALTHCARE (UK) LIMITED et al		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 4 sheets, including this cover sheet.

☒ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 10 sheets.

3. This report contains indications relating to the following items:
 - I ☒ Basis of the opinion
 - II ☐ Priority
 - III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
 - IV ☐ Lack of unity of invention
 - V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - VI ☐ Certain documents cited
 - VII ☐ Certain defects in the international application
 - VIII ☐ Certain observations on the international application

Date of submission of the demand 19.01.2004	Date of completion of this report 22.10.2004
Name and mailing address of the International preliminary examining authority:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Authorized Officer Tallgren, A Telephone No. +31 70 340-3933 

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/GB 03/03040

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

8-22 as originally filed
1-7 received on 21.07.2004 with letter of 21.07.2004

Claims, Numbers

1-15 received on 21.07.2004 with letter of 21.07.2004

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
☐ the language of publication of the international application (under Rule 48.3(b)).
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☒ the description, pages: 23-25
☐ the claims, Nos.:
☐ the drawings, sheets:

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

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**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement**

1. Statement

Novelty (N)	Yes: Claims	1-15
	No: Claims	
Inventive step (IS)	Yes: Claims	1-15
	No: Claims	
Industrial applicability (IA)	Yes: Claims	1-15
	No: Claims	

2. Citations and explanations

see separate sheet

**INTERNATIONAL PRELIMINARY
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International application No. PCT/GB 03/03040

1. The amended claims 1-15 fulfill the criteria set by article 34(2)b and is therefore accepted (old claim 7 and page 7 paragraph 1).

2. ITEM V

The following document is referred to:

CPA (closest prior art) EP-A-0583852

Both the application and CPA describe an ingestible composition containing polysaccharides, surfactant and colloidal silica.

The difference is, that in CPA there is no mentioning of ispaghula as the fiber. CPA produces a nutritious drink and current application produces a composition to alleviate constipation. Both CPA and current application are in a larger sense solving the same problem: dispersing composition to liquid. The difference is, that CPA has the problem of precipitation of gourd powder when put to water, but this is not really the problem addressed in CPA to choose correct ingredients. The main problem is to choose correct ingredients to achieve good taste. The problem of current application is to avoid to form a gel when put to water. A skilled person would not consider using ispaghula, because of the very well known gelling problem. Moreover, there is found a surprising effect to improve the wettability of ispaghula by using the special combination of colloidal silica with an ingestible surfactant. There is no document cited in the search report filed in time to suggest the use of above mentioned composition or to describe the surprising effect to ispaghula. Therefore a skilled person would not have a hint to use ispaghula in combination with colloidal silica and an ingestible surfactant to provide an easily dispersible composition.

Accordingly the amended claims 1-15 meet the requirements of Articles 33(2) and (3) PCT.